

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARY L. EDWARDS,

Plaintiff,

v.

TACOMA PUBLIC SCHOOLS AND ALL
UNKNOWN PARTIES,

Defendant.

No. C04-5656RBL

ORDER GRANTING
PLAINTIFF'S MOTION
TO AMEND

This matter is before the Court on Plaintiff Mary Edwards' Motion to Amend her Complaint [Dkt. #20]. Plaintiff asks this Court to stay Defendant Tacoma Public Schools' Motion to Dismiss for Failure to State a Claim [Dkt. # 7] until she has amended her complaint.

Defendant Tacoma Public Schools ("Public Schools") argues any amendment to the complaint would be futile and would not correct for the deficiencies in Edwards' initial complaint. The Court cannot agree.

Under Fed. R. Civ. P. 15, this Court must be extremely liberal in considering motions to amend the pleadings. *See Price v. Kramer*, 200 F.3d 1237, 1250 (9th Cir. 2000), cert. denied, 531 U.S. 816 (2000). The purpose of the rule is to encourage decisions on the merits rather than the precision of the pleadings. *See Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000). Accordingly, "the motion to dismiss for failure to state a claim is viewed with disfavor and is rarely granted." *Gilligan v. Jamco Develop. Corp.*, 108 F.3d 246, 249 (9th Cir. 1997).

This is not one of the "extraordinary cases" in which a Fed. R. Civ. P. 12(b)(6) dismissal is proper.

1 *United States v. Redwood*, 640 F.2d 963, 966 (9th Cir. 1981) (holding 12(b)(6) dismissals are only proper
2 in “extraordinary cases”). Plaintiff Edwards argues that she can amend her complaint in a manner which
3 addresses Tacoma Schools’ motion to dismiss. She also seeks to amend by including a claim under the
4 Americans with Disabilities Act (ADA). When considering a motion to dismiss for failure to state a claim,
5 the Court is obligated to construe the facts and complaint in the light most favorable to the non-moving
6 party, in this case, Plaintiff Edwards. *See Love v. United States*, 915 F.2d 1242, 1245 (9th Cir. 1990).
7 Viewed in that light, the Court is satisfied that Edwards amended complaint will state a proper claim and
8 that her ADA claim will not be futile.

9 Plaintiff’s Motion to Amend is hereby **GRANTED** and Defendant’s Motion to Dismiss is **DENIED**
10 without prejudice. The clerk of the Court is hereby notified to send uncertified copies of this Order to all
11 parties and their counsel of record.

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13 DATED this 12th day of May, 2005.

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16 RONALD B. LEIGHTON
17 UNITED STATES DISTRICT JUDGE
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